

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

RINANDO T. TUCKER,

Petitioner,

v.

DONALD A. HULICK,

Respondent.

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Case No.: 06-cv-00998-GPM-DGW


ORDER

This action comes before the Court upon review of the docket. Petitioner Rinando T. Tucker, an inmate in the Menard Correctional Center, filed an amended petition for writ of habeas corpus under 28 U.S.C. § 2254 on June 22, 2009 (Doc. 29). He named Donald A. Hulick as Respondent. On October 14, 2009, Respondent Hulick filed his First Amended Response to the Amended Petition (Doc. 33).

A petition for a writ of habeas corpus must include the “name of the person who has custody” over the petitioner. 28 U.S.C. §2242. Any writ issued by a court is to be directed “to the person having custody over the person detained.” 28 U.S.C. §2243. In *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), the Supreme Court reaffirmed its holding regarding the proper respondent in a habeas corpus action. The Court emphasized that for over 100 years the Supreme Court has interpreted the statute to mean that the proper respondent in a habeas corpus action is the person who has “immediate custody” over the petitioner “with the power to produce the body of such party before the court or judge, that he may be liberated if no sufficient reason is shown to the contrary.” *Id.* at 435 (quoting *Wales v. Whitney*, 114 U.S. 564, 574 (1885)). Applying this rule, the proper respondent is Mike Atchison, the warden at the Menard Correctional Center.

Accordingly, Mike Atchison, is **SUBSTITUTED** as the Respondent in this action. The caption on all future filings should read: *Rinando T. Tucker v. Mike Atchison*.

DATED: December 12, 2011


DONALD G. WILKERSON
United States Magistrate Judge